

relating to Petitioner and any entities owned or controlled by Petitioner. The Petition to Quash Summons in this Court promptly followed.

This Court has the authority, under both 26 U.S.C. §§ 7402(b) and 7604(a), to enforce administrative summonses issued by the IRS. In *United States v. Powell*, 379 U.S. 48 (1964), the Supreme Court of the United States established a four-element test for the enforcement of such a summons. If the United States demonstrates “[1] that the investigation will be conducted pursuant to a legitimate purpose, [2] that the inquiry may be relevant to the purpose, [3] that the information sought is not already within the Commissioner’s possession, and [4] that the administrative steps required by the Code have been followed,” then the summons should be enforced. *Id.* at 57–58.

The United States has successfully established all four elements here. First, the investigation into Petitioner’s tax liabilities is being conducted for a legitimate purpose, namely to determine what, if any, income tax liability Petitioner faces for 2003 through 2006. Second, the information sought, Petitioner’s financial records for those years, is clearly relevant to the determination of potential income tax liability. Third, the United States has affirmed that the information held by Capital One is not information already within the Commissioner’s possession, particularly given that Petitioner did not file tax returns for the years in question. Finally, the administrative steps required—including notification of the taxpayer regarding the investigation—have been conducted.

Of course, the taxpayer “may challenge the summons on any appropriate ground,” including that the material is sought for an improper purpose or that it is privileged. *Reisman v. Caplin*, 375 U.S. 440, 449 (1964). Further, this Court certainly “may . . . inquire into the underlying reasons for the examination” to ensure that the IRS is not harassing or overly burdening a citizen. *Powell*, 379 U.S. at 58. Ultimately, though, “[t]he burden of showing an abuse of the court’s process is on the taxpayer.” *Id.* Petitioner here, despite his extensive and rambling discourse on the tax system, fails to show any such abuse of process.

Petitioner does not specifically address any of the *Powell* elements, instead arguing generally that he previously “had been influenced and misled . . . into believing that [he] was subject to and liable for the so-called ‘income’ tax,” which he “no longer believe[s] to be Constitutional, legal or true.” (Resp. to Mot. 20.) Petitioner further accuses the United States government of “deceiv[ing] Petitioner into believing that Congress had imposed a direct tax on our earnings . . . and by such deception, ha[s] created the greatest extortion ever perpetrated upon a nation of free people in the entire history of the world.” (Resp. to Mot. 23.)

While Petitioner may not agree with or “believe” in the *Powell* prima facie test, it is the supreme law of the land and the standard by which this Court is bound to judge the case before it. The United States has established its case, and Petitioner has failed to rebut it.

For these reasons, Respondent's Motion for Summary Denial of Petition to Quash and Summary Enforcement of Summons (Dkt. No. 3) is GRANTED. The Petition to Quash (Dkt. No. 1) is DENIED, and the summons will be enforced if Capital One does not timely comply with the United States. All matters having been resolved, the action is HEREBY DISMISSED.

The Clerk is directed to send a copy of this Memorandum Order to Petitioner and to counsel for the United States.

It is SO ORDERED.

HA /s/
Henry E. Hudson
United States District Judge

Date: July 10, 2008
Richmond, VA